BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi Chambers, M.G Road, Bangalore – 560 001

Present: B.N.Krishnaiah
Electricity Ombudsman

Case No. OMB/H/G-279/2017

Dated : 09-01-2018

Naranji Kanji & Co.,
C/o Tushar M.Baddi,
Arihant Park, keshwapur
Huuballli
Appellant

(By Tushar M Baddi, Authorized Representative)

V/S

1. The Assistant Executive Engineer (Ele)
CSD-3, Udyam Nagar,
Hubballi.

2. The Chairperson, CGRF,
Dharwar District, HESCOM,
Office of the Superintending Engineer,
O&M Circle, Shivaganga Layout,
Kusugal Road, Hubballi

Respondents

(R-1 by Sri H.V.Devaraj, Advocate)

1. This is an appeal filed under clause 21.2 of KERC (CGRF & Ombudsman) Regulations, 2004 against the orders passed by CGRF, HESCOM, Hubli (here in after referred to as the 2nd Respondent) dated 21.01.2017.
2. Both the parties were informed vide letter dated 16.05.2017 regarding availability of sub-regulation 20(1) of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement by conciliation and mediation which both parties have not availed. Hence, the Authority proceeds to pass the orders on merits.

3. The appellant has filed the appeal seeking the following reliefs:

   (a) Call for records

   (b) Upon perusal of records, be pleased to set aside the impugned communication of AEE as illegal, as it ultra vires the Indian Electricity Act, 2003, the Reg. of COS made there under.

   (c) To consider the objection of the complainant seeking justice in a just, fair and dispassionate manner and to pass a reasoned order on merits quashing the previous communication.

   (d) Direct the respondent Licensee to strictly comply with the provisions of the Indian Electricity Act, 2003 and the relevant regulations specified thereunder and the COS specified by the KERC.

   (e) Direct the Licensee to award compensation as stipulated under KERC SoP Regulations 2004.

   (f) Direct the Licensee to convey electricity supply under LT category to the tune of 75 KW.

4. The contentions of the appellant as follows:

   (i) Installation bearing RR No.RTRLMP-113 is serviced on 28.04.1994 in the name of M/s.Naranji Kanji & Co., with a sanctioned load of
49.25 KW DBT Tariff by remitting necessary deposits as demanded by the Licensee. The consumer of the said installation applied for additional load to the tune of 75 KW (i.e. existing 49.25 KW + additional 25.75 KW) under LT industrial installation on 01.07.2014 duly remitting the registration fees to the concerned sub-division office;

(ii) The AEE examined the proposal and forwarded to the next higher authority for sanctioning the aforesaid proposal on 08.07.2014.

(iii) On 20.09.2014 the AEE has issued an endorsement asking to avail HT power supply instead of LT power supply without furnishing any specific reason;

(iv) Being aggrieved by this, the consumer sought for clarification from the General Manager Technical Corporate office, HESCOM, Hubli. The General Manager issued a letter to the Zonal Chief Manager to look into the matter and to give necessary directions as per KERC Conditions of Supply. The Zonal Chief Engineer has similarly forwarded the letter to the Circle Superintendent Engineer directing the authority to look into the matter and to take action as per KERC Conditions of Supply;

(v) Since there was no response from the concerned authority, again the matter was brought to the notice of Zonal Chief Engineer on 19.12.2014 to give necessary direction for power supply at the earliest as there was delay already. But unfortunately no endorsement was issued by the Zonal Chief Manager. The matter was brought to the notice of the General Manager (Technical) duly citing regulations and amendments for which the complainant is eligible to get the additional power supply under LT category;
(vi) The General Manager (Technical) again endorsed a letter to the Executive Engineer on 02.03.2015 to look into this matter and directed to arrange additional supply as per KERC Condition of Supply. But even this letter from General manager Technical was in vain and now the letter from the General Manager Technical was issued to the Zonal Chief Engineer on 17.03.2015;

(vii) Since the issue is prolonged and there is an inordinate delay punishment as defined under Section 146 of the Electricity Act may be imposed on the concerned employees of the Licensee for violating the KERC Regulations and non-compliance of the directions issued by the higher authorities and also compensation on the basis of KERC Standard of performance shall be awarded to the aggrieved as the concerned licensee has exhibited its inefficiency in following the KERC regulations and acted excess of jurisdiction. This would also make mockery of the statutory provisions. The Executive Engineer has also committed an error by showing undue delay in conveying additional power supply to the said installation. Note (1) for Regulation 3.1.7 (D)(ii) amended version of (Recovery of Expenditure for Supply of Electricity) Regulation 2004 reads as follows:

“1) for installation serviced prior to 6.10.95 arranging power supply on HT basis is applicable only if the load of the individual installation (commercial or power as the case may be) including the additional load sought exceeds 100 KW and not the total load of other installations in the same building.”
From reading of the above regulation, it emerges that the installation bearing RR No.RTRLMP-113 situated at Tarihal Industrial Area for which power is serviced on 28.04.1994 as said earlier the sanctioned load of the said installation is 49.25 KW. Since the said installation is serviced prior to 06.10.1995 the complainant is eligible to avail power supply under LT category to an extent of 100 KW. The licensee has deliberately denied of approving additional power supply wherein it is the legitimate duty of the license, as there are other ulterior motives involved. This may kindly be noted by this Hon’ble Authority.

(viii) It is well established that the consumer is eligible to avail power supply under LT category, yet the grant of additional power supply is refused on untenable grounds.

(ix) The CGRF appreciated the case on hand in the hearing but since the forum is headed and controlled by the licensee’s Superintending Engineer, the forum might have shielded its guilty officials, and delivered the order negatively. This Hon’ble Authority may please take a note that the order of the said Forum is earmarked on 27.01.2017 but the same is deliberately delivered to the complainant on 08.03.2017.

5. The AEE by letter dated 06.05.2017 has submitted reply as follows :

1) From the regulation, it is evident that the installation bearing RR No.RTRLMP-113, situated at Tarihal Industrial Area, has a sanctioned load of 49.25 KW as on 28.04.1994. Since the installation was serviced prior to 06.10.1995, the complainant is eligible to receive power supply under LT category up to an extent of 100 KW. The licensee has deliberately refused to approve additional power supply, which is within the legitimate duty of the license, as there are other ulterior motives involved. This may kindly be noted by this Hon’ble Authority.

(viii) It is well established that the consumer is eligible to receive power supply under LT category, yet the grant of additional power supply is refused on untenable grounds.

(ix) The CGRF appreciated the case on hand during the hearing but since the forum is headed and controlled by the licensee’s Superintending Engineer, the forum might have shielded its guilty officials, and delivered the order negatively. This Hon’ble Authority may please take a note that the order of the said Forum is earmarked on 27.01.2017 but the same is deliberately delivered to the complainant on 08.03.2017.

5. The AEE by letter dated 06.05.2017 has submitted reply as follows:

1) From the regulation, it is evident that the installation bearing RR No.RTRLMP-113, situated at Tarihal Industrial Area, has a sanctioned load of 49.25 KW as on 28.04.1994. Since the installation was serviced prior to 06.10.1995, the complainant is eligible to receive power supply under LT category up to an extent of 100 KW. The licensee has deliberately refused to approve additional power supply, which is within the legitimate duty of the license, as there are other ulterior motives involved. This may kindly be noted by this Hon’ble Authority.

(viii) It is well established that the consumer is eligible to receive power supply under LT category, yet the grant of additional power supply is refused on untenable grounds.

(ix) The CGRF appreciated the case on hand during the hearing but since the forum is headed and controlled by the licensee’s Superintending Engineer, the forum might have shielded its guilty officials, and delivered the order negatively. This Hon’ble Authority may please take a note that the order of the said Forum is earmarked on 27.01.2017 but the same is deliberately delivered to the complainant on 08.03.2017.
KERC Regulation 2004 Clause 3.1.(D)(ii)(iii) was amended on 08.07.2014 so that the rate of service under Regulation 2006 Clause 7.0 is applicable. The amended rate was set at 50% of the existing rate. The amended rate was applicable from 27.01.2017.

KERC Regulation 2004 Clause 3.1.7 (D)(ii)(iii) was amended on 08.07.2014 so that the rate of service under Regulation 2006 Clause 7.0 is applicable. The amended rate was set at 50% of the existing rate. The amended rate was applicable from 27.01.2017.
for installation serviced prior to 06.10.1995 arranging power supply on HT basis is applicable only if the load of the installation (commercial or power as the case may be) including the additional load sought exceeds 100 KW and not the total load of the other installation in the same building means in case of mixed load in the building with a serviced date prior to 06.10.1995 can only be serviced up to 100 KW for Motive power load in MS building having mixed load.

(a) KERC Regulation 2006 7.0 clause 7.0.5 round trip 50 sq.m. area 50 sq.m. area 49.25 sq.m. area 25.75 sq.m. 25.75 sq.m. 50 sq.m. 25.75 sq.m. 49.25 sq.m. area 25.75 sq.m. 25.75 sq.m.
6. The authorised representative for the appellant reiterated the contentions taken in the appeal memo. The learned Advocate for the respondent defended the action of the AEE.

7. The written and oral submissions made by both the parties are perused and considered. It all shows that though the sanctioned power for the appellants is 50 kw under LT 5, the additional load sanctioned crosses 50 kws, and thus the installation is given power and conversion from LT 5 to HT category as per the request made by the consumer in 2005.

8. It appears that the Licensee authorities have handled the request as per procedure laid down under 3.02( b) of Chapter 3 - Conditions of Supply of Electricity of Distribution Licensees in The State of Karnataka. The correspondence and proceedings shows that no delay is caused by the licensee authority in providing power and hence, the request of relief under Standards of Performance Regulations 2004 does not arise.
9. Hence, the appeal is set aside.

Sd/-

(B.N. Krishnaiah)

Electricity Ombudsman

To:


2. Sri H.V.Devaraj, Advocate, No.39, Shop No.24, Mezzanine Floor, A.S.V.N.V.Bhavan, K.G.Road, Bangalore.-560009

3. The Assistant Executive Engineer(El), O&M, HESCOM, City Sub-Division-3, Udyam Nagar, Hubballi.

4. The Chairperson, CGRF, & Superintending Engineer, Dharwar District, HESCOM, O&M Circle, Shivaganga Layout, Kusugal Road, Hubballi

5. Managing Directors of ESCOMs.

6. PS to Hon. Chairman, KERC

7. PS to Hon. Member (A), KERC

8. PS to Hon. Member (M), KERC

9. PS to Secretary, KERC
Naranji Kanji & Co.,
C/o Tushar M. Baddi,
Arihant Park, keshwapur
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Appellant

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TO:

M/s Naranji Kanji & Co.,
C/o Tushar M Baddi,
Arihant Park, keshwapur
Hubballi
To: The Assistant Executive Engineer (Ele) CSD-3, Udyam Nagar, Hubballi.

TO: The Chairperson, CGRF, Dharwar District, HESCOM, Office of the Superintending Engineer, O&M Circle, Shivaganga Layout, Kusugal Road, Hubballi

To: Sri Tushar M Baddi, Arihant Park, Keshwapur, Hubballi.

To: Sri H.V.Devaraj, Advocate, No.39, Shop No.24, Mezzanine Floor, A.S.V.N.V.Bhavan, K.G.Road, Bangalore.-560009.

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**** sd/